

# HAFETZ NECHELES & ROCCO

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BY ELECTRONIC MAIL AND ECF

The Honorable Frederic Block  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *United States v. Pedro Espada, Jr., et al.*, 10 CR 985 (s-2)(FB)

Dear Judge Block:

We set forth below our requests with respect to a jury questionnaire. We have keyed this letter to the government's proposed questionnaire dated February 8, 2012. In paragraphs 1 - 12 of this letter we set forth our objections to the questions proposed by the government, or our requests that the language proposed by the government be modified in some way. In paragraph 13 below we set forth additional questions that we ask be included in the jury questionnaire.

1. With respect to the government's proposed question number 3, the defendants ask that instead of asking whether English is a prospective juror's "native" language ("native" language is a confusing term because many people grow up in dual language households), the jurors be asked the following:

3(a) What languages do you speak or understand?

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3(b) Do you have any difficulty reading or understanding English?

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2. The defendant's object to the government's proposed question 9: "if someone other than you prepares your taxes, do you review them before they are filed?" This question is not relevant to the issue of whether or not the potential juror will be able to understand this case or is likely to harbor biases against one side or another.

3. With respect to the government's proposed question 10, we ask that same question regarding the spouse's educational level be added, as follows:

Educational Background of yourself and your spouse:

	Yourself	Your spouse
Grade school or less		
Less than high school		
High School graduate		
Technical or Trade school (if yes, indicate degree and/or field of study)		
College Graduate (if yes, indicate degree and field of study)		
Post Graduate education (if yes, indicate your degree and field of study)		

4. The defendants object to government's proposed question 11. The government seeks to know whether proposed jurors travel in connection with their jobs, whether their employer provides them with a corporate credit card, or whether their employer provides them with an expense account. None of these questions are not relevant to the issue of whether or not the potential juror will be able to understand this case or is likely to harbor biases against one side or another.

5. With respect to the government's proposed questions number 12 and 13, the defendant requests that the following question be substituted for the questions proposed by the government, to ensure that there is no confusion by jurors:

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To your knowledge, have you, any members of your family, or any close friends, ever been employed by, or made any application for employment with, any local, state or federal law enforcement or private security agency, including, but not limited to, the following (write yes or no for each category):

	Self	Family Member	Close Friend	Position
Federal Bureau of Investigation (FBI)				
U.S. Attorney's Office				
Other Prosecutor's Office				
Department of Health and Human Resources				
Department of Justice				
Internal Revenue Service (IRS)				
Inspector General's Office				
Health and Human Services				
Any court, whether Federal or State				
New York State's Attorney General's Office				
Any local prosecutor's office, whether in New York or elsewhere				
Any governmental entity associated with Medicaid or Medicare				
The New York State Department of Health				
Correctional Officer or Bureau of Prisons				
Parole or				

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Probation Office				
Any Police Department				
The United States Marshal's Service				
Any Sheriff's Office				
Any other federal agency not listed above				
Any other law enforcement or private security agency not listed above				

Have you: (Check an answer for each)

A. Volunteered to assist law enforcement? Yes \_\_\_\_\_ No \_\_\_\_\_

B. Participated in a "Ride along" program? Yes \_\_\_\_\_ No \_\_\_\_\_

C. Donated money to any police or other law enforcement auxiliary or fund raising program  
Yes \_\_\_\_\_ No \_\_\_\_\_

6. With respect to government's proposed questions number 15 and 16, the defendants ask that the following italicized words be added to the end of the questions:

Have you, your spouse/significant other, and/or a close family member ever had any training or education in law, *accounting, criminal justice, medicine, or health care management*?

Have you, your spouse/significant other, and/or a close family member ever been employed in any aspect of the legal field,, *accounting, criminal justice, medicine, or health care management*?

7. With respect to government's proposed question number 21, the defendants ask that the following italicized words be added to the end of the questions:

Please list any newspapers and/or magazines that you read on a regular basis, *in print or online, and indicate how often you read them.*

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8. With respect to government's proposed question number 22, the defendants ask that the following italicized words be added to the end of the questions:

Please list any television shows (including the news) that you watch on a regular basis, *and any internet sites you visit on a regular basis, and indicate how often you watch these shows or visit these web sites.*

9. We ask that the following be inserted as questions number 22(a) and 22(b):

Please list any radio talk shows you listen to and indicate how often you listen to these shows:

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Do you ever listen to political commentators on TV or the radio, or do you ever visit political blog sites on the internet and if so, which and how often?

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10. The defendants object to government's proposed question 35(e), 35(g), and 35(h). These questions, which ask the juror to rate how much they know about either of the defendants or about this case, is confusing and likely to lead to misinformation. What one person thinks is "a great deal" of information might only be considered "a little" information by another juror. We ask that if any juror answers that he or she knows about the defendants or read about this case that they be individually *voir dire*d as to what they know, where they learned this information, and whether they believe they can set this information aside and decide the case solely on the evidence presented in court.

11. The defendants ask that the following language be substituted for government's proposed question 38: This case is likely to receive ongoing media attention. The Court wants to make sure that this case is decided solely on the evidence in the courtroom and not based on things that are said outside the courtroom. Accordingly, the Court will be advising you periodically that you must avoid reading about the case in the newspapers or listening to any radio or television reports about the case. The Court will also advise you periodically that you must avoid discussing this case with friends or family during the course of the trial.

Would these requirements pose any difficulty for you? Yes No

12. The defendants object to the first sentence of government's proposed question 45 which states "it is not a particularly pleasant duty to find another individual guilty of committing a crime." This sentence is unnecessary and should be omitted.

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13. We ask that the following questions, not covered by the government's proposed questionnaire, be included in the jury questionnaire:

a. Do you have any views on politicians? If so, what are your views? \_\_\_\_\_

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b. Have you read or seen anything about what was described as the "coup" in the New York State Senate? If yes, what? \_\_\_\_\_

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c. Have you ever volunteered or worked on a political campaign? If yes, what campaign, what did you do, and when did this occur? \_\_\_\_\_

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d. Do you or your spouse or significant other work for a company that is a vendor to or a contractor with the United States Government? \_\_\_\_\_

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e. In what ways, if any, could your political views, or those of your spouse, affect your service as a juror in this case? \_\_\_\_\_

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f. Have you, any member of your family, or any close personal friend ever held an elected or appointed office in the federal, state or county government? Yes No

If yes, please describe: \_\_\_\_\_

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g. What groups or organizations, if any, did you donate money, goods, or volunteer time to during the last five years? \_\_\_\_\_

h. Do you have any opinions about salaries paid to people who work for not-for-profit organizations or charities? \_\_\_\_\_

i. Have you ever worked for a not for profit organization or a charity or a hospital or do you have any close friends or relatives who work or worked for one of these types of organizations? \_\_\_\_\_

j. Is there any racial or ethnic group that you do not feel comfortable being around?

Yes No Not Sure

If yes, please explain: \_\_\_\_\_

k. Do you know of any reason that would keep you from serving fairly and impartially as a juror in a case in which the defendant was a person whose race was different than yours? Yes No

If yes, please explain: \_\_\_\_\_

l. PLEASE CHECK THE ANSWER THAT MOST CLOSELY REFLECTS YOUR OWN OPINION CONCERNING THE FOLLOWING STATEMENTS.

- Do you believe that if the prosecution goes to the trouble of bringing someone to trial, he or she is probably guilty? Yes No Unsure

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- Do you believe that the law does too much to protect the rights of criminal defendants and not enough to protect the rights of society? Yes No Unsure
- Do you believe that if the defendant in a criminal trial does not testify he or she is probably guilty? Yes No Unsure
- Do you believe that, in a criminal trial, the defendant should be presumed innocent? Yes No Unsure
- Would you be more likely to believe the testimony of a law enforcement officer as compared to other witnesses? Yes No Unsure
- Do you believe that government should be given the benefit of the doubt in proving the guilt of Politicians? Yes No Unsure
- Do you believe that "proof beyond a reasonable doubt" is too heavy a burden for the prosecution to have to meet in criminal trials? Yes No Unsure
- Do you follow changes in the tax law or regularly read about tax laws? Yes No

Respectfully submitted,

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